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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,291	10/06/2000	Alexander P. Moravsky	7000R	9193
7590 LEOPOLD PRESSER SCULLY SCOTT MURPHY & PRESSER 400 GARDEN CITY PLAZA GARDEN CITY, NY 11530-0299			EXAMINER HENDRICKSON, STUART L	
			ART UNIT 1736	PAPER NUMBER
			MAIL DATE 11/12/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/680,291

Applicant(s)

MORAVSKY ET AL.

Examiner

Stuart Hendrickson

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 67, 70, 73-84 and 97-114 is/are pending in the application.
4a) Of the above claim(s) 70, 73, 74, 103-107 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 67, 75-84, 97-102 and 108-114 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

The traverse is noted but not persuasive since there is a burden of search and the inventions are distinct. They are not drawn to 'double walled nanotube' since nonelected claims clearly require additional materials as vital components.

Claims 70, 73, 74, 103-107 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, and the requirement is made FINAL.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 67, 75-84, 97-102, 108, 110, 111, 114 are rejected under 35 U.S.C. 102(e) as being anticipated by WO00/17102 with 6692717 taken as a translation thereof.

Col. 12 lines 20-25 teach a composition of 70% DWNTs. No differences are seen in the properties.

Claims 67, 75-84, 97-102, 108-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over '102.

The relative purity is not taught, however purification is taught by the reference. Separating all the DWNTs from the SWNTs is an obvious expedient to exploit the properties of each separately (even if the SWNTs are the focus of the reference).

Applicant's arguments filed 10/5/10 have been fully considered but they are not persuasive. The present figures show imperfections, so the arguments of better quality are not persuasive. Column 9 is noted to optimize formation of DWNTs, in accordance to what applicant argues their invention does. It has not been established that all of applicant's tubes are perfect and all those of Smalley are defective.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

/Stuart Hendrickson/

Primary Examiner, Art Unit 1736